

10

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ABDULRAHMAN MUNASSAR,

No. C 05-4350 JL

**Plaintiff,**

v.

## HORIZON LINES, INCORPORATED,

## **CASE MANAGEMENT AND PRETRIAL ORDER**

Defendant.

17 Pursuant to Fed. R. Civ. P. 16 and Civ. L.R. 16-10(b), the following case  
18 management and pretrial order is entered:

19 || 1. TRIAL DATE

20 a. Jury trial will begin on November 13, 2006 at 9:00 a.m. in Courtroom  
21 F, 15th Floor, 450 Golden Gate Avenue, San Francisco, CA 94102.

22 b. The length of the trial will be not more than 5 days.

## 23 || 2. DISCOVERY

24 All discovery shall be completed by October 13, 2006.

25                   In the event of a discovery dispute the parties shall use the following  
26 procedure:

27 Parties shall meet and confer in person, or, if counsel are located outside the Bay  
28 Area, by telephone, to attempt to resolve their dispute informally. A mere exchange of

1 letters, telephone calls, or facsimile transmissions does not satisfy the requirement to meet  
2 and confer.

3 If, after a good faith effort, the parties have not resolved their dispute, they shall  
4 prepare a concise joint statement, of less than three pages, without affidavits or exhibits,  
5 stating the nature and status of their dispute. If a joint statement is not possible, each side  
6 may submit a one page individual statement. The Court will advise the parties regarding the  
7 need, if any, for formal briefing or a hearing.

8 3. MOTIONS

9 All dispositive motions shall be served and filed not less than **thirty-five (35)** days  
10 prior to the scheduled hearing date. Any opposition shall be served and filed no later than  
11 **twenty-one (21)** days prior to the hearing date. Any reply to the opposition shall be served  
12 and filed no later than **fourteen (14)** days prior to the hearing. Prior to a dispositive motion,  
13 the parties shall meet and confer and, at the time the motion is filed, submit a joint  
14 statement of undisputed facts.

15 4. ALTERNATIVE DISPUTE RESOLUTION (ADR)

16 The Court hereby refers this case for **one** of the following:

- 17 a. A settlement conference to be scheduled before another Magistrate  
18 Judge of this court within 90 days of the case management  
19 conference. Counsel will be contacted by that judge's chambers with a  
20 date and time for the conference as soon as is convenient to the  
21 judge's calendar.
- 22 b. Referral to ADR for purpose of scheduling ENE.

23 5. A further Case Management Conference will be held within 30 days of  
24 unsuccessful settlement conference or ADR proceedings. Parties shall jointly propose a  
25 date on a Wednesday at 10:30 a.m.

26 6. PRETRIAL CONFERENCE

1 a. A final pretrial conference shall be held on November 2, 2006 at 11:00  
2 a.m., in Courtroom F, 15th Floor. Each party shall attend personally or by counsel who will  
3 try the case.

4 b. **Not less than thirty (30) days** prior to the date of the pretrial  
5 conference, all counsel or parties shall meet and fulfill the requirements of Civil Local Rule  
6 16-10(b).

7 c. **Not less than twenty (20) days** prior to the pretrial conference,  
8 counsel or parties shall

9 (I) serve and file a joint pretrial statement pursuant to Local Rule 16-10  
10 (b);

11 The pretrial statement shall include the disclosures required by Fed. R. Civ. P.  
12 26(a)(3) as well as the following:

13 THE ACTION

14 Substance of the Action

15 Relief Prayed

16 FACTUAL BASIS FOR THE ACTION

17 Undisputed Facts

18 Disputed Factual Issues

19 Agreed Statement

20 Stipulations

21 DISPUTED LEGAL ISSUES

22 (List)

23 TRIAL PREPARATION

24 Witnesses to be Called

25 Exhibits, Schedules and Summaries;

26 Trial

27 Estimate of Trial Time

28 Use of Discovery Responses at Trial

1                   Further Discovery or Motions

2                   TRIAL ALTERNATIVES AND OPTIONS

3                   Settlement Discussions

4                   Amendments - Dismissals

5                   Bifurcation, Separate Trial of Issues

6                   MISCELLANEOUS

7                   Any other concerns of the parties

8                   d.       At the same time that the parties file their joint pretrial statement they  
9 shall also:

10                   (ii)      Serve and file trial briefs, which shall specify each cause of  
11                   action and defense remaining to be tried along with a statement of the  
12                   applicable legal standard (no opposition shall be filed);

13                   (iii)     Serve and file motions *in limine*, which shall be contained in  
14                   one document. Motions in limine will be decided at the Pretrial  
15                   Conference.

16                   e.        Serve and file a list of excerpts from discovery that will be offered at  
17                   trial, specifying the witness, page and line references and whether the excerpt is to be  
18                   offered in lieu of testimony or as impeachment;

19                   f.        Serve and file a list of witnesses likely to be called at trial, in person or  
20                   by deposition, other than solely for impeachment or rebuttal, with a brief statement  
21                   describing the substance of the testimony to be given;

22                   g.        Serve and file a numerical list of exhibits (including demonstrative  
23                   exhibits that may be admitted into evidence but not those that are purely illustrative), with a  
24                   brief statement describing the substance and purpose of each exhibit and the name of the  
25                   sponsoring witness;

26                   h.        Exchange exhibits which shall be premarked, tabbed and in binders  
27                   (plaintiff shall use numbers and defendant shall use letters); and deliver the original and  
28

- 1 **two** duplicate sets of all premarked exhibits to chambers (exhibits are not to be filed) at
- 2 least one week before trial.

3 || (See Label)

4

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

8 Case No. \_\_\_\_\_

10 Exhibit No. \_\_\_\_\_

12 Date entered:

RICHARD W. WIEKING, Clerk

By: \_\_\_\_\_

## Deputy Clerk

17                   j.         Serve and file proposed joint voir dire questions and joint jury  
18 instructions for cases to be tried by jury (further instructions regarding jury instructions  
19 below);  
20                   k.         Serve and file proposed findings of fact and conclusions of law for cases  
21 to be tried by the Court.

22 I. Serve and file a proposed verdict form which contains no reference to  
23 submitting party.

26 n. No party shall be permitted to call any witness or offer any exhibit in its  
27 case in chief that is not disclosed in these pretrial filings without leave of court and for good  
28 cause.

1       7. **Not less than nine calendar days** prior to the pretrial conference, counsel or  
2 parties shall serve and file any opposition or objection to those items required by section 3  
3 (e), (f), (i), (j), (k) and (l) of this order. Additionally, counsel or parties shall file any  
4 objections to the qualifications of expert witnesses contained in the opposing party's  
5 witness list. Objections not filed as required will be deemed waived. No replies shall be  
6 filed. All motions and objections shall be heard at the pretrial conference unless otherwise  
7 ordered.

8       8.       JURY TRIAL

9           a.       Counsel shall submit an **agreed upon set** of additional voir dire  
10 questions to be posed by the Court. Any voir dire questions on which counsel cannot  
11 agree may be submitted separately. Counsel will be allowed brief follow-up voir dire after  
12 the Court's questioning.

13           b.       The following jury instructions from the Manual of Model Civil Jury  
14 Instructions for the Ninth Circuit (2002 Edition as modified 2003) will be given absent  
15 objection: 1.1 - 1.12, 2.1 - 2.6, 3.1 - 3.3, 3.5 - 3.8, 4.1 - 4.6. The Ninth Circuit Manual of  
16 Model Civil Jury Instructions is available on the web site for the U.S. District Court for the  
17 Northern District of California at [www.cand.uscourts.gov](http://www.cand.uscourts.gov). Click on the 9<sup>th</sup> Circuit home  
18 page button at the lower left of the first screen and then choose the Manual of Model Civil  
19 Jury Instructions from the list on the right hand side of the next screen. Counsel shall also  
20 submit an agreed upon set of case specific instructions, using the Ninth Circuit Manual of  
21 Model Civil Jury Instructions where appropriate. Do not submit duplicates of those listed  
22 above. Any instructions to which counsel cannot agree may be submitted separately.  
23 Each requested instruction shall be typed in full on a separate page with citations to the  
24 authority upon which it is based and a reference to the party submitting it. A **second blind**  
25 **copy** of each instruction and verdict form shall also be submitted omitting the citation to  
26 authority and the reference to the submitting party.

27           9.       All documents filed with the Clerk of the Court shall list the civil case number  
28

1 followed by the initials "JL." One copy shall be clearly marked as a **chambers** copy.  
2 Plaintiff shall re-file the second amended complaint.  
3 The parties shall appear for a further case management conference on April 26 at  
4 10:30 a.m. Counsel shall provide the court with an updated case management conference  
5 statement a few days prior to the conference.

6 IT IS SO ORDERED.

7 DATED: February 27, 2006

8  
9   
10 James Larson  
11 Chief Magistrate Judge